IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL SIDE JURISDICTION

WRIT PETITION NO.1808 OF 1999

Mrs. Mendoza Mary Petitioner.

Vs

The State of Maharashtra and others. ..Respondents

Mr. M.C. Shah i/by Mr. R.R. Sharma for the petitioner.
Ms. S.M. Dandekar, Assistant Government Pleader for the State.

CORAM: SWATANTER KUMAR, C.J., & J.P. DEVADHAR, J.

DATE : 10TH DECEMBER, 2007

P.C.:

Nobody is present on behalf of the Corporation. We have heard the learned counsel appearing for the petitioner and the learned counsel appearing for the State of Maharashtra.

2. Challenge in the present writ petition is to the order dated 15th September, 1998 by which it was directed to recover the excess amount from the petitioner for the period commencing from 13th June, 1981 to 2nd May, 1997. It was stated that an excess amount has been made to

the petitioner.

3. The petitioner was appointed as Assistant Teacher in the primary section of the Indian Airlines Ideal School, Kalina, Santacruz, Mumbai on 8th June, 1981. She served in that capacity and she was confirmed on that post on 22nd September, 1982. The petitioner claims to have passed the Diploma in Education from Gujarat University and passed B.A. Examination from the S.N.D.T. University, Mumbai. The respondent-school is the Corporation school and the petitioner was issued notice on 9th September, 1998. It appears that the recovery was sought to be made for the reason that the diploma which the petitioner was possessing was not recognized by the concerned authorities. The notice was issued in the year 1999 resulting in passing of the impugned order dated 15th September, 1998. The petitioner has rendered service for all the years and we are informed now that the petitioner has been given refund. The recoveries sought to be made are for the period 1981 to 1997 during which period, no objection was raised. The petitioner was called upon to perform her duties and was entitled to salary in the post which she was working. The order passed by the respondents dated 15th September, 1998, in fact, is a non-speaking order to which

there is no reason whatsoever. The impugned order visits the petitioner with civil consequences and is bound to cause serious financial losses. It was required of the respondents to grant appropriate relief with liberty to the petitioner of being heard before such an order is passed. Neither such hearing was given nor anything was stated on record.

4. The impugned order dated 15th September, 1998 is in violation of the principals of natural justice and thus, it is liable to be set aside which is hereby set aside. Liberty to the respondents to take action in accordance with law. Petition is disposed of in the above terms. Rule is made absolute. No order as to costs.

CHIEF JUSTICE

J.P. DEVADHAR, J.